

## ARTICLE 69-07

### GRAIN WAREHOUSES, GRAIN BUYERS, AND HAY BUYERS

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#### CHAPTER 69-07-01 GENERAL

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**69-07-01-01. Open trades.** A licensee is prohibited from carrying open trades more than the legitimate hedging needs. Violation of this section may be punishable by revocation of license.

**History:** Amended effective August 1, 1999.

**General Authority:** NDCC 60-02-03, 60-02.1-03

**Law Implemented:** NDCC 60-02-03, 60-02.1-03

**69-07-01-02. Change of commission firms.** Repealed effective February 1, 1991.

**69-07-01-03. Outstanding storage at license termination.** A warehouseman having outstanding storage at the termination of the license period, must procure a license in the usual manner, even though elevator is closed, or will be closed.

**General Authority:** NDCC 60-02-03

**Law Implemented:** NDCC 60-02-03

**69-07-01-04. Storage in another warehouse.** All nontransit grain owned or held by a warehouseman licensed under North Dakota Century Code chapter 60-02 must be held in a licensed and bonded warehouse, either within or outside the state. When grain is held in space that is not licensed by the warehouseman under North Dakota Century Code chapter 60-02, a warehouse document issued for that grain must identify the originating warehouse as the receipt holder. When grain held subject to a warehouse receipt is stored in a warehouse that is not licensed under North Dakota Century Code chapter 60-02, the originating warehouse must increase its bond to provide protection for that grain as well as its own licensed warehouse space.

Daily position records must include inventories held under nonnegotiable warehouse receipts issued by another licensed warehouseman.

**History:** Amended effective May 1, 1984; February 1, 1994; August 1, 1999.

**General Authority:** NDCC 60-02-03

**Law Implemented:** NDCC 60-02-03

**69-07-01-05. Special bin.** Grain received for special bin storage shall go through the same procedure as cash or other stored grain.

**History:** Amended effective May 1, 1984.

**General Authority:** NDCC 60-02-03

**Law Implemented:** NDCC 60-02-03

**69-07-01-06. Procedure for temporary closing.** A facility may not be closed for more than fifteen days without the prior commission approval. Notice of the duration of the closing and the name, address, and telephone number of the facility's contact person must be posted in a conspicuous manner at the facility.

**History:** Amended effective May 1, 1984; February 1, 1994; August 1, 1999.

**General Authority:** NDCC 60-02-03, 60-02.1-03

**Law Implemented:** NDCC 60-02-03, 60-02-39, 60-02.1-03, 60-02.1-25

**69-07-01-07. Modified business hours.** A facility may not deviate from normal business hours without prior commission approval. Notice of the revised business hours and the name, address, and telephone number of the facility's contact person must be posted in a conspicuous manner at the facility.

**History:** Effective February 1, 1991; amended effective August 1, 1999.

**General Authority:** NDCC 60-02-03, 60-02.1-03

**Law Implemented:** NDCC 60-02-39, 60-02.1-25

**69-07-01-08. Adequate bond and insurance coverage - Suspension.** The license of a licensee who fails to maintain adequate insurance and bond coverage will be suspended automatically. The suspended license must be

surrendered to the commission and the suspension notice must be posted in a conspicuous manner at the facility, if applicable.

**History:** Effective February 1, 1991; amended effective August 1, 1999.

**General Authority:** NDCC 60-02-03, 60-02.1-03

**Law Implemented:** NDCC 60-02-09, 60-02-09.1, 60-02-10.1, 60-02-35, 60-02-35.1, 60-02.1-08, 60-02.1-09, 60-02.1-21, 60-02.1-22

**69-07-01-09. Change in capacity.** A licensee may not change its physical capacity without prior commission approval. A request to change capacity must be in writing and specifically identify the capacity being added or deleted. Deleted capacity must be physically disconnected from other capacity. Added capacity must be properly bonded. Additions not previously licensed must be accompanied by a diagram showing the location and capacity of the space involved.

**History:** Effective February 1, 1991; amended effective August 1, 1999.

**General Authority:** NDCC 60-02-03, 60-02.1-03

**Law Implemented:** NDCC 60-02-09, 60-02.1-03

**69-07-01-10. License suspension.** Upon suspension of its license, a licensee must:

1. Within five days of receipt of notice, provide each receipt holder with written notice that its license is suspended, if applicable, and that grain must be removed from the facility or it will be priced and redeemed in cash in accordance with state law. The notice must contain the projected date of license revocation and indicate that if a receipt holder chooses not to sell the grain to the licensee and does not take redelivery prior to revocation, the grain may no longer be covered by insurance or bond.
2. If applicable, keep the commission's suspension notice conspicuously posted in the office window or on the front driveway door of the facility.
3. Surrender the license to the commission.
4. If applicable, not receive additional grain for purchase, storage, shipping, or processing.
5. If applicable, refrain from selling or shipping grain without prior written commission approval.

**History:** Effective February 1, 1991; amended effective August 1, 1999; March 1, 2003.

**General Authority:** NDCC 60-02-03, 60-02.1-03

**Law Implemented:** NDCC 60-02-09.1, 60-02-10.1, 60-02-35.1, 60-02.1-09, 60-02.1-11, 60-02.1-22

**69-07-01-11. Request to discontinue business.** A licensee may not discontinue business without prior written approval from the commission.

**History:** Effective February 1, 1991; amended effective August 1, 1999.

**General Authority:** NDCC 60-02-03, 60-02.1-03, 60-03-01.1

**Law Implemented:** NDCC 60-02-41, 60-02.1-27, 60-03-02

**69-07-01-12. Assumption of liability for transfer of grain.** A licensee that intends to acquire a facility operated by another licensee and to assume responsibility for grain obligations of the former licensee must notify the commission of the assumption of the liability. The notice must be submitted on a form provided by the commission.

**History:** Effective February 1, 1991; amended effective August 1, 1999.

**General Authority:** NDCC 60-02-03, 60-02.1-03

**Law Implemented:** NDCC 60-02-40, 60-02.1-26

**69-07-01-13. Delivery policy.** A warehouseman shall, during July of each year, publish and post in a conspicuous place in each warehouse, the warehouse's policy for delivery of grain to a warehouse receipt holder. The policy must remain in effect at least through the following June and must outline how the warehouseman will charge or compensate receipt holders for differences in quantity, kind, quality, and grade that exist between the grain described in the scale ticket and the grain that is actually delivered back to the receipt holder. A copy of the warehouse's policy for delivery must be provided to the commission as a part of its annual warehouse license application. A copy of the policy must also be attached to each warehouse receipt issued to an owner of grain.

**History:** Effective February 1, 1991; amended effective August 1, 1999.

**General Authority:** NDCC 28-32-02, 60-02-03

**Law Implemented:** NDCC 60-02-17, 60-02-22

**69-07-01-14. Grain buyers license - Processed grain.** A grain buyers license is not required if a purchaser is acquiring grain that is owned by the licensed entity and that has been:

1. Substantially altered by processing or blending with a nongrain product;  
or
2. Cleaned and bagged and made ready for consumption.

Any processed commodity will, however, be considered grain and thereby made an asset that is available to the commission in an insolvency proceeding.

**History:** Effective August 1, 1999.

**General Authority:** NDCC 60-02-03, 60-02.1-03

**Law Implemented:** NDCC 60-02-03, 60-02.1-03